

To: Allnutt, David[Allnutt.David@epa.gov]; Jen, Mark[Jen.Mark@epa.gov]
From: Littleton, Christine
Sent: Tue 8/9/2016 10:58:48 PM
Subject: FW: Tribal Consultation Question

FYI – to inform our discussion tomorrow. I'll follow up with another message that has a statement from Candi.

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From: Goforth, Kathleen
Sent: Tuesday, August 09, 2016 10:58 AM
To: Littleton, Christine <Littleton.Christine@epa.gov>
Cc: Leff, Karin <Leff.Karin@epa.gov>; Timmermann, Timothy <Timmermann.Timothy@epa.gov>; Lapp, Jeffrey <lapp.jeffrey@epa.gov>; Mancusi-Ungaro, Philip <Mancusi-Ungaro.Philip@epa.gov>; Strobel, Philip <Strobel.Philip@epa.gov>; Schuller, Jennifer <Schuller.Jennifer@epa.gov>; Houston, Robert <Houston.Robert@epa.gov>; Westlake, Kenneth <westlake.kenneth@epa.gov>; Musumeci, Grace <Musumeci.Grace@epa.gov>; Militscher, Chris <Militscher.Chris@epa.gov>; Hessert, Aimee <Hessert.Aimee@epa.gov>
Subject: Re: Tribal Consultation Question

Yes, we received a similar request last year. Actually, it was an after-the-fact accusation/complaint that we had "failed" to consult.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 (I'll look for that and send it to you). We had a call with the tribe to explain our position and see what we could do otherwise to address their concerns. They were not happy and told us that they disagreed with our "interpretation" of our own policy. We held firm on it, but reiterated our interest in knowing tribes' concerns about proposed projects and ensuring that they are aware of opportunities to comment on EISs, and our willingness to help broker communications with lead agencies, if necessary. One of the tribe's primary complaints was that our comment letter on a Forest recovery plan had not told the Forest Service to adopt an alternative based on Traditional Ecological Knowledge, which was the basis for an alternative that the tribe had proposed late in the EIS development process. They believed that CEQ had issued a policy or guidance directing agencies to rely on TEK, and they were upset that our comment letter had supported the Forest Service's proposed approach. We also researched the TEK issue and found no such policy or guidance from CEQ or any federal agency, although we did learn that a few DOI agencies -- FWS, I think, was one -- are starting to think about how and when TEK can best be incorporated into their planning and decision making processes. We never reached any grand resolution with the tribe. I think there were some underlying miscommunications and prior misunderstandings that had contributed to the their indignation and anger, and those did not lend themselves well to resolution via a phone call. In the end, I think our Tribal office offered to provide some additional, more regular liaison services to improve communications in general, and we committed to proactively check-in with the tribe to get their perspective on NEPA projects in their area, with the caveat that our obligation to conduct an independent review precluded us from committing to always support the tribe's position in our comment letters.

-Kathy

Sent from my iPhone
On Aug 9, 2016, at 9:43 AM, Littleton, Christine <Littleton.Christine@epa.gov> wrote:

An Alaska Native Corporation has requested formal consultation with EPA regarding our NEPA comments on the Donlin Mine DEIS. While we are definitely willing to meet and discuss the comments, we are in the midst of internal

Deliberative Process / Ex. 5

I promised that I would reach out to all of you to see if other regions or HQ had ever received a request from a tribe for consultation on our comments, and if so, how you handled it.

Thank you for any words of wisdom (or random conjecture)!

Teena Littleton

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